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will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.

(9) *Department not responsible for damage.* This treatment is approved to assure quarantine security against Mediterranean fruit fly. From the literature available, the fruits and vegetables authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are safe and wholesome for human consumption.

(d) *Premises.* A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with malathion bait spray. These treatments must take place at 6 to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Mediterranean fruit fly. Determination of the time period must be based on day degrees. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied at a rate of 1.2 fluid ounces of technical grade malathion (1.4 ounces by weight) and 10.8 fluid ounces of protein hydrolysate (13.2 ounces by weight) per acre, for a total of 12 fluid ounces per acre.

(e) *Soil.* Soil within the drip area of plants that are producing or have produced the berries, fruits, nuts, and vegetables listed in § 301.78-2(a) of this subpart: Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip area with sufficient water to wet the soil to a depth of at least ½ inch. Both immersion and

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pour-on treatment procedures are also acceptable.

(Approved by the Office of Management and Budget under control number 0579-0088)

[56 FR 57576, Nov. 13, 1991; 56 FR 63550, Dec. 4, 1991, as amended at 58 FR 63031, Nov. 30, 1993; 59 FR 25791, May 18, 1994; 60 FR 52834, Oct. 11, 1995; 62 FR 47557, Sept. 10, 1997; 65 FR 54742, Sept. 11, 2000; 67 FR 8464, Feb 25, 2002; 67 FR 63536, Oct. 15, 2002]

Subpart—Witchweed

QUARANTINE AND REGULATIONS

§ 301.80 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines the States of North Carolina and South Carolina in order to prevent the spread of witchweed (*Striga* spp.), a parasitic plant that causes a dangerous disease of corn, sorghum, and other crops of the grass family and is not widely prevalent or distributed within and throughout the United States. Through the aforementioned authorities, the Secretary imposes a quarantine on the States of North Carolina and South Carolina with respect to the interstate movement from those States of articles described in paragraph (b) of this section, issues regulations in this subpart governing the movement of such articles, and gives notice of this quarantine action.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.80-1(p) as regulated articles), except in accordance with the conditions prescribed in this subpart:

- (1) Soil, compost, peat, humus, muck, and decomposed manure, separately or with other things; sand; and gravel.
- (2) Plants with roots.
- (3) Grass sod.
- (4) Plant crowns and roots for propagation.
- (5) True bulbs, corms, rhizomes, and tubers of ornamental plants.

(6) Root crops, except those from which all soil has been removed.

(7) Peanuts in shells and peanut shells, except boiled or roasted peanuts.

(8) Small grains and soybeans.

(9) Hay, straw, fodder, and plant litter of any kind.

(10) Seed cotton and gin trash.

(11) Stumpwood.

(12) Long green cucumbers, cantaloupes, peppers, squash, tomatoes, and watermelons, except those from which all soil has been removed.

(13) Pickling cucumbers, string beans, and field peas.

(14) Cabbage, except firm heads with loose outer leaves removed.

(15) Leaf tobacco, except flue-cured leaf tobacco.

(16) Ear corn, except shucked ear corn.

(17) Sorghum.

(18) Used crates, boxes, burlap bags, and cotton-picking sacks, and other used farm products containers.

(19) Used farm tools.

(20) Used mechanized cultivating equipment and used harvesting equipment.

(21) Used mechanized soil-moving equipment.

(22) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by paragraphs (b) (1) through (20) of this section, when it is determined by an inspector that they present a hazard of spread of witchweed, and the person in possession thereof has been so notified.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27372, July 2, 1976; 58 FR 216, Jan. 5, 1993; 66 FR 21052, Apr. 27, 2001]

§ 301.80-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Certificate. A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

Compliance agreement. A written agreement between a person engaged in

growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

Farm tools. An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

Generally infested area. Any part of a regulated area not designated as a suppressive area in accordance with § 301.80-2.

Infestation. The presence of witchweed or the existence of circumstances that make it reasonable to believe that witchweed is present.

Inspector. Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization, or processing, or for treatment.

Mechanized cultivating equipment; and mechanized harvesting equipment. Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., mechanical cotton harvesters, hay balers, corn pickers, and combines.

Mechanized soil-moving equipment. Mechanized equipment used to move or

transport soil, e.g., draglines, bulldozers, road scrapers, and dumptrucks.

Moved (movement, move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. “Movement” and “move” shall be construed accordingly.

Person. Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

Regulated area. Any quarantined State, or any portion thereof, designated as a regulated area in §301.80-2a or otherwise designated as a regulated area in accordance with §301.80-2(b).

Regulated articles. Any articles described in §301.80(b).

Restricted destination permit. A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

Scientific permit. A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

Soil. That part of the upper layer of earth in which plants can grow.

State. Any State, territory, or district of the United States, including Puerto Rico.

Suppressive area. That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Deputy Administrator under §301.80-2(a).

Treatment Manual. The provisions currently contained in the “Manual of Administratively Authorized Procedures to be Used Under the Witchweed Quarantine” and the “Fumigation Pro-

cedures Manual” and any amendments thereto.¹

Witchweed. Parasitic plants of the genus *Striga* and reproductive parts thereof, including seeds.

[41 FR 27372, July 2, 1976, as amended at 66 FR 21052, Apr. 27, 2001]

§ 301.80-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall designate as regulated areas, in a supplemental regulation designated as §301.80-2a, each quarantined State, or each portion thereof in which witchweed has been found or in which there is reason to believe that witchweed is present or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may designate any regulated area or portion thereof, as a suppressive area or a generally infested area in accordance with the definitions thereof in §301.80-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator

¹Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector.

or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and may designate the regulated area or portions thereof as a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for designating such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.80-2a if a basis then exists for their designation.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section. The Deputy Administrator or an inspector shall terminate the designation provided for under paragraph (b) of this section of any premises designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section, and notice thereof shall be given to the owner or person in possession of the premises.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.80-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

[41 FR 27372, July 2, 1976]

§ 301.80-2a Regulated areas; generally infested and suppressive areas.

The civil divisions and parts of civil divisions described below are designated as witchweed regulated areas within the meaning of this subpart.

NORTH CAROLINA

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Bladen County. That area north of a line beginning at the intersection of the Robeson-Bladen County line and State Highway 211, then east along State Highway 211 Bypass to State Highway 242, then northeast along State Highway 242 to U.S. Highway 701, then north along U.S. Highway 701 to the Cape Fear River, then southeast along the Cape Fear River to the Bladen-Columbus County line.

The Blanks, Alex, farm located on the north side of State Secondary Road 1734 and 0.5 mile southeast of its intersection with State Highway 87.

The Hardison, H.B., farm located on a field road 0.25 mile northwest of its intersection with State Secondary Road 1719 and 0.2 mile west of its intersection with State Secondary Road 1797.

The Jacobs, Sammy, farm located on a field road 2.0 miles southwest of its intersection with State Secondary Road 1708 and 0.25 mile south of its intersection with State Secondary Road 211.

The Maultsby, T.N., farm located on both sides of State Highway 87 at 0.7 mile northwest of its intersection with State Secondary Road 1743.

The Williams, Johnny, farm located west of State Highway 211 Business and 0.1 mile from its intersection with State Highway 211 Bypass and 0.5 mile southeast of the Robeson-Bladen County line.

Columbus County. The Biggs, K.M., farm located on the north side of State Secondary Road 1574 and 1.1 miles southeast of its intersection with State Secondary Road 1506.

The Border Belt Research Station farm located on the west side of State Secondary Road 1537 and 0.3 mile northeast of its intersection with State Secondary Road 1002.

The Britt, J.T., farm located on the east side of State Secondary Road 1504 and 1.3 miles northeast of its intersection with State Secondary Road 1504.

The Gore, Nettie, farm located on the west side of U.S. Highway 76 and 0.6 mile north of its intersection with State Secondary Road 1355.

The Griffin, Wilson, farm located on the east side of State Secondary Road 1512 and 1.4 miles southwest of its intersection with State Highway 242.

The Ivey, William, farm located on the south side of State Secondary Road 1504 and

0.3 mile from its intersection with State Secondary Road 1506.

The Keaton, Willie, farm located on the south side of State Secondary Road 1852 and 0.5 mile southwest of its intersection with State Highway 87.

The Lennon, Calvin, farm located on the southwest side of State Secondary Road 1002 and 0.7 mile southeast of its intersection with State Highway 242.

Cumberland County. That area bounded on the west by the Cape Fear River, then by a line running east and northeast along the Fayetteville city limits to U.S. Highway 301, then northeast along U.S. Highway 301 to Interstate 95, then northeast along Interstate 95 to U.S. Highway 13, then east and northeast along U.S. Highway 13 to the Cumberland-Sampson County line.

The Bullock, Berline, farm located on the north side of State Secondary Road 1722 and 0.2 mile west of its intersection with U.S. Highway 301.

The Lewis, David, farm located on the west side of U.S. Highway 301 and 0.1 mile south of its intersection with State Secondary Road 1802.

The Lovick, Eugene, farm located on the north side of State Secondary Road 1732 and 0.9 mile west of its junction with U.S. Highway 301.

The McKeithan, Sarah, farm located on the west side of U.S. Highway 301 and 0.3 mile south of its intersection with State Secondary Road 1856.

The McKeithan, Zela, farm located on the east side of U.S. Highway 301 and 0.3 mile south of its intersection with State Secondary Road 1856.

The McLaughlin, Cornell, farm located on the south side of State Secondary Road 2221 and 0.2 mile east of its intersection with State Secondary Road 2367.

The McLaurin, George, farm located on the north side of State Secondary Road 1722 and 0.4 mile west of its intersection with U.S. Highway 301.

The McNeill, Clifton, farm located on both sides of State Secondary Road 2241 at its intersection with State Secondary Road 2252.

The Odom, Marshall, farm located on the north side of State Secondary Road 1722 and 0.1 mile west of its intersection with U.S. Highway 301.

The Patterson, Theodore, farm located on the north side of State Road 1288 at its intersection with State Secondary Road 1116.

The Underwood, Olive T., farm located on the east side of State Secondary Road 1723 and 0.8 mile south of its junction with State Secondary Road 1722.

The Williams, Howard, farm located at the end of State Secondary Road 2243, which is a dead end road.

Pender County. The Kea, Leo, farm located 0.3 mile east of State Secondary Road 1105

and 1.2 miles south of its intersection with State Secondary Road 1104.

The Keith, F.R., farm located on both sides of State Secondary Road 1130 and 0.7 mile west of its junction with State Highway 210.

The Manuel, George, farm located 0.1 mile south of State Highway 210 and 0.2 mile west of its junction with State Secondary Road 1103.

The McCallister, Mary, farm located 0.2 mile east of State Secondary Road 1105 and 1.1 miles south of its intersection with State Secondary Road 1104.

The Zibelin, John R., farm located 0.5 mile east of State Secondary Road 1105 and 1.2 miles south of its intersection with State Secondary Road 1104.

Robeson County. That area west and south of a line beginning at the intersection of Interstate 95 and the Cumberland-Robeson County line and extending southeast along Interstate 95 to State Highway 211 then northeast along State Highway 211 to the Robeson-Bladen County line.

The Epps, Frank, farm located on the northeast side of a field road 0.5 mile east of its intersection with State Secondary Road 1935 and 0.7 mile east of its intersection with U.S. Highway 301.

The Smith, Josephine, farm located on the west side of State Secondary Road 1937 and 0.2 mile south of its intersection with State Secondary Road 1933.

The Warwick, W.M., farm located on a field road 0.3 mile north of State Secondary Road 2120 and 0.5 mile west of its intersection with State Highway 211.

Sampson County. That area south of a line beginning at a point where U.S. Highway 421 intersects the Sampson-Harnett County line, then southeast along U.S. Highway 421 to the Sampson-Pender County line.

The Bryant, Ermon Estate, farm located on the north side of State Secondary Road 1943 and 0.6 mile northwest of its intersection with State Secondary Road 1942.

The Hobbs, Ed, farm located 0.7 mile south of State Secondary Road 1736 and 1 mile south of its intersection with State Secondary Road 1731.

The Merritt, David, farm located on a field road 0.5 mile south of State Secondary Road 1943 and 0.4 mile southwest of its intersection with State Secondary Road 1944.

The Pate, Ray, farm located on the west side of State Secondary Road 1738 and 0.6 mile southeast of its intersection with State Secondary Road 1740.

The Quarter M Farms farm located on a field road 0.2 mile southeast of State Secondary Road 1955 and 0.7 mile southeast of its intersection with State Secondary Road 1945.

The Strickland, Edgebert, farm located on the north side of State Highway 421 and 1 mile east of its intersection with State Secondary Road 1703.

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SOUTH CAROLINA

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Dillon County. The Adams, Coble, farm located west of State Secondary Highway 23 and 0.2 mile north of its intersection with State Secondary Highway 286.

The Wise, Wilbur, farm located on the south side of a field road and 0.15 mile southeast of the junction of the road with State Secondary Road 626 and 0.55 mile southwest of the intersection of State Secondary Road 625 with State Highway 38.

Horry County. That area bounded by a line beginning at a point where U.S. Highway 76 intersects the South Carolina-North Carolina State line, then south along U.S. Highway 76 to State Secondary Highway 44, then south along State Secondary Highway 44 to State Secondary Highway 19, then south along State Secondary Highway 19 to Honey Camp Branch, then southwest along Honey Camp Branch to Lake Swamp, then east along Lake Swamp to Prince Mill Swamp, then south along Prince Mill Swamp to State Secondary Highway 309, then southwest along State Secondary Highway 309 to State Secondary Highway 45, then southwest along State Secondary Highway 45 to State Secondary Highway 129, then northwest along State Secondary Highway 129 to U.S. Highway 501, then northwest along U.S. Highway 501 to the Little Pee Dee River, then northeast along the Little Pee Dee River to the Lumber River, then northeast along the Lumber River to the South Carolina-North Carolina State line, then southeast along the State line to the point of beginning.

That area south of a line beginning at the intersection of the Waccamaw River and State Secondary Highway 638, then southeast along State Secondary Highway 638 to State Primary Highway 90, then north along State Primary Highway 90 to an unpaved road known as Water Tower Road, then east along Water Tower Road to an unpaved road known as Telephone Road, then southeast along Telephone Road to the northern tip of Long Bay, then west along Long Bay to Dogwood Road, then northwest along Dogwood Road to South Carolina Primary Highway 90, then northeast along South Carolina Primary Highway 90 to the north branch of Mills Swamp, then west along this branch to the Waccamaw River, then northeast along the Waccamaw River to the point of beginning.

The Harden, John, farm located on the northwest side of a dirt road and 0.4 mile northeast of the junction of this dirt road with State Secondary Roads 105 and 377.

The Stevens, James, farm located on the south side of a dirt road and 0.3 mile northeast of its junction with State Secondary Highway 112, this junction being 1.2 miles

east of the junction of State Secondary Highway 112 with State Secondary Highway 139.

Marion County. That area north, west, and east of a line beginning at the intersection of State Primary Highway 41A and the North Carolina-South Carolina State lines, then southwest along State Primary Highway 41A to the Marion city limits, then southeast along the Marion city limits to U.S. Highway 76, then east along U.S. Highway 76 to the Mullins city limits, then southeast along the Mullins city limits to State Primary Highway 917, then southeast along State Primary Highway 917 to the Little Pee Dee River.

[63 FR 31602, June 10, 1998]

§ 301.80-2b Exempted articles.¹

(a) The following articles are exempt from the certification and permit and other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (5) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraph:

(1) Small grains, if harvested in bulk or into new or treated containers, and if the grains and containers for the grains have not come in contact with the soil or if they have been cleaned at a designed facility.²

(2) Soybeans, when determined by an inspector that the soybeans were grown, harvested, and handled in a manner to prevent contamination from witchweed seed.

(3) Pickling cucumbers, string beans, and field peas, if washed free of soil with running water.

(4) Used farm tools, if cleaned free of soil.

(5) Used mechanized cultivating equipment and used mechanized soil-moving equipment, if cleaned free of soil.

¹The articles hereby exempted remain subject to applicable restrictions under other quarantines.

²Information as to designated facilities, gins, oil mills, and processing plants may be obtained from an inspector. Any facility, gin, oil mill, or processing plant is eligible for designation under this subpart if the operator thereof enters into a compliance agreement (as defined in § 301.80-1(b)).

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(b) The following article is exempt from the certification and permit requirements of § 301.80-4 under the applicable conditions as prescribed in paragraph (b)(1) of this section:

(1) Seed cotton, if moving to a designated gin.²

[42 FR 56334, Oct. 25, 1977, as amended at 53 FR 24924, July 1, 1988]

§ 301.80-3 Conditions governing the interstate movement of regulated articles from quarantined States.³

(a) Any regulated articles, except soil samples for processing, testing, or analysis, may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.80-4 and 301.80-7, if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the witchweed and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this section; or

(2) Without certificate or permit if moved:

(i) From any regulated area under the provisions of § 301.80-2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the witchweed exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(A) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.80-2b; or

(B) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved⁴ by the Deputy Administrator and so listed by him in a supplemental regulation.⁵ A certificate or permit will not be required to be attached to such soil samples except in those emergency situations where the Deputy Administrator has authorized such movement to another destination with a certificate or permit issued and attached in accordance with §§ 301.80-4(d) and 301.80-7. Soil samples originating in areas outside of the regulated areas will not require such a certificate or permit and their movement is not restricted to approved laboratories if the point of origin of such samples is clearly indicated on the articles or shipping document which accompanies the articles and if

⁴Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250.

⁵For list of approved laboratories, see (41 FR 4615 and amendments thereof).

³Requirements under all other applicable Federal domestic plant quarantines must also be met.

the movement is not made through any regulated area.

[41 FR 27373, July 2, 1976]

§ 301.80-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Have been treated to destroy infestation in accordance with the treatment manual; or

(3) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles (except soil samples for processing, testing, or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of witchweed and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles, and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations, may be issued

by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of witchweed.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments of regulated articles (except soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. As soon as possible after such withdrawal, the holder of the certificate or permit shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present his views thereon, and if there

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is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds that such other party has failed to comply with the conditions of the agreement. As soon as possible after such cancellation, such party shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present views thereon, and if there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.80-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such a manner as the inspector designates to facilitate inspection.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificates or

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permit shall be securely attached to the outside of the container in which such articles are moved except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

§ 301.80-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and witchweed as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754), in accordance with instructions issued by the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976; 66 FR 21052, Apr. 27, 2001]

§ 301.80-9 Movement of witchweed.

Regulations requiring a permit for, and otherwise governing the movement of witchweed in interstate or foreign commerce are contained in the Federal plant pest regulations in part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

§ 301.80-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]